## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

MARY JOHANNABER,	)	
D1 : .100	)	
Plaintiff,	)	
	)	C N A OFCHOOSE EDW
VS.	)	Case No. 2:07CV00058 ERW
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

## MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Mary Ann Medler pursuant to 29 U.S.C. § 636(b) [doc. #12].

The Commissioner of Social Security ("Commissioner") filed a Motion seeking to have the Court dismiss Plaintiff's Complaint as untimely. The Magistrate Judge recommends that the Commissioner's Motion be denied. No objections were filed to the Report and Recommendation within the time period afforded by 28 U.S.C. § 636(b)(1).

The Court has considered the Report and Recommendation and hereby sustains, adopts and incorporates herein the Magistrate's Report and Recommendation in its entirety.

Accordingly,

IT IS HEREBY ORDERED that Defendant Michael J. Astrue's Motion to Dismiss [doc. #10] is **DENIED.** 

**IT IS FURTHER ORDERED** that Defendant shall file an answer and the transcript of the administrative record within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that Plaintiff shall file a brief within thirty (30) days after service of Defendant's answer and transcript of the administrative record; Defendant shall then file

a responsive brief within thirty (30) days after service of Plaintiff's brief; and Plaintiff shall be granted ten (10) days thereafter to file a reply brief.

Dated this 8th Day of May, 2008.

E. RICHARD WEBBER

UNITED STATES DISTRICT JUDGE